

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re: \*  
\*  
**JOSE L. LIZARDI ORTIZ** \* Case No: 15-03076 (ESL)  
\*  
Debtor \* Chapter 11  
\*

\*\*\*\*\*

**UNITED STATES TRUSTEE'S POSITION  
REGARDING TO MOTION TO DISMISS**

***TO THE HONORABLE COURT:***

Guy G. Gebhardt, the Acting United States Trustee for Region 21 (the "United States Trustee"), through his undersigned counsel, and pursuant to 28 U.S.C. § 586(a) and § 307 of the Bankruptcy Code, respectfully states and prays as follows:

**Procedural Background**

1. On April 28, 2015, the Debtor filed his petition under Chapter 11 of the Bankruptcy Code (Dkt. #1).
2. On September 29, 2015, creditors, Susan Kelly-Hands, Patrick Hand, and Rachel Hand (hereinafter referred to as the "Creditors"), filed a motion to dismiss with a bar to re-file (Dkt. #84).
3. The Court scheduled a hearing to consider the motion to dismiss for October 27, 2015 (Dkt. #85).

**United States Trustee's Position**

4. § 1112(b) of the Bankruptcy Code provides, in pertinent part, as follows:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing,

**IN RE JOSE L. LIZARDI ORTIZ**  
CASE NO. 15-03076 (ESL)

Page 2 of 3

the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate. (Emphasis supplied)

11 U.S.C. § 1112(b)(1).

5. The United States Trustee respectfully submits that the allegations submitted by the Creditors in their motion to dismiss may comply with the standards of dismissal pursuant to 11 U.S.C. § 1112.

6. However, the same allegations also support a conversion and the appointment of a Chapter 7 trustee.

7. Conversion to Chapter 7, not dismissal, may be the appropriate relief in this case. A Chapter 7 trustee may investigate and review Debtor's transactions and take the appropriate legal actions for the benefit of the bankruptcy estate and the creditors.

8. The United States Trustee will review the allegations and appear at the hearing scheduled to consider the motion to dismiss. On or before the hearing, the United States Trustee would have considered whether to support the Creditors' motion to dismiss, move for conversion to Chapter 7, or request any other relief.

**WHEREFORE**, the United States Trustee respectfully requests that the Honorable Court take note of the above, and enter such further relief as deemed just and proper.

**CERTIFICATE OF SERVICE**

**I DO HEREBY CERTIFY** that on this day I electronically filed a true and exact copy of the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

**IN RE JOSE L. LIZARDI ORTIZ**  
CASE NO. 15-03076 (ESL)

Page 3 of 3

SOLYMAR CASTILLO MORALES	scastillo@gaclaw.com, jrosado@gaclaw.com
CARMEN D CONDE TORRES	notices@condelaw.com
MONSITA LECAROSZ ARRIBAS	ustpregion21.hr.ecf@usdoj.gov
US TRUSTEE	ustpregion21.hr.ecf@usdoj.gov
LUISA S VALLE CASTRO	notices@condelaw.com, ls.valle@condelaw.com

**I DO HEREBY FURTHER CERTIFY** that on this same date a true and exact copy of the foregoing has been sent by regular United States mail to the Debtor, **José L. Lizardi Ortiz**, Cond. Surf Side Mansions, Apt. No. 1105, Carolina, PR 00979; and **Gregory Mills**, 1520 Crescent Road, Suite 100, Clifton Park, NY, 12065-7809.

DATED: October 5, 2015.

**GUY G. GEBHARDT**  
Acting United States Trustee for Region 21

**MONSITA LECAROSZ ARRIBAS**  
Assistant United States Trustee

**U.S. DEPARTMENT OF JUSTICE**  
**OFFICE OF THE UNITED STATES TRUSTEE**  
Edificio Ochoa  
500 Tanca Street, Suite 301  
San Juan, Puerto Rico 00901-1922  
Tel.: (787) 729-7445  
Fax: (787) 729-7449

**(Electronically Filed)**

By: s/ José Carlos Díaz-Vega  
José Carlos Díaz-Vega  
Trial Attorney  
USDC-PR No. 213607